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TO ITS EFFECT UPON TITLE

AND WHEN RECORDED MAIL TO:

Executive Officer
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, California 92660

COPY of Document Recorded

11-3-08

31661

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San Imperial COUNTY REGISTRAR-RECORDER

COVENANT AND ENVIRONMENTAL RESTRICTION
ON USE OF PROPERTY

ACC-110308-27

(10.27.08Version)

Recording Requested By:

CT-EL CENTRO, LLC
20151 S. W. Birch St. #200
Newport Beach, CA 92660

When Recorded, Mail To:

Executive Officer
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, California 92660

COVENANT AND ENVIRONMENTAL RESTRICTION
ON USE OF PROPERTY

Regarding Property Formerly known as Wright's Dry Cleaners, 1693 West Main Street, El Centro, California

This Covenant and Environmental Restriction on Use of Property ("Covenant") is made by CT-El Centro, LLC, a California limited liability company (the "Covenantor"), who is the current owner of property situated in the City of El Centro, County of Imperial, State of California, which is more particularly described in Exhibit "A" as the "Set Aside Parcel," attached hereto and incorporated herein by this reference (the "Burdened Property"), for the benefit of the California Regional Water Quality Control Board, Colorado River Basin Region ("Regional Water Board").

ARTICLE I

STATEMENT OF FACTS

1.1 Nature of Covenant. Pursuant to Civil Code section 1471, the Regional Water Board has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the Burdened Property and underlying groundwater of "hazardous materials," as defined in Health and Safety Code section 25260(d), and "waste," as defined in Water Code section 13050(d). The Covenantor hereby agrees that the

use of the Burdened Property be restricted as set forth in this Covenant

1.2 Contamination of the Burdened Property. Soil at the Burdened Property was impacted by the historical dry cleaning operations conducted by the former Wright's Dry Cleaners and others. These operations resulted in contamination of soil and groundwater with organic chemicals, including tetrachloroethylene (also known as perchloroethylene (PCE). The contaminated soils and groundwater constitute hazardous materials and waste.

1.3 Remediation of the Burdened Property. Remediation of impacted soil and groundwater has been accomplished through the remediation methodologies of "electrical resistance heating" and "soil vapor extraction." Residual contamination will be sealed beneath an asphalt-paved parking lot.

1.4 Exposure Pathways. The contaminants addressed in this Covenant are present in the soil and groundwater at the Burdened Property. Extensive sampling of the Burdened Property and underlying groundwater was conducted to determine the areal extent and concentration of contamination. Following completion of the remediation described above, additional sampling was conducted. The additional sampling revealed that residual concentrations of contaminants remain in the soil and groundwater. As a result of the remediation conducted and as confirmed by a Tier 2 Risk-Based Corrective Action analysis conducted, which is attached hereto and incorporated herein by this reference, the risk of public exposure to these contaminants has been substantially lessened by the remediation and controls described herein.

1.5 Adjacent Land Uses and Population Potentially Affected. The Burdened Property is used for commercial parking and driveway areas, and is adjacent to commercial land uses.

1.6 Disclosure. Full and voluntary disclosure to the Regional Water Board of the presence of hazardous materials and/or waste on the Burdened Property has been made, and extensive sampling of the Burdened Property has been conducted, as described above.

1.7 Notice. Covenantor desires to provide notice of certain matters respecting the Burdened Property and to impose certain covenants, conditions, and environmental restrictions upon the Burdened Property.

ARTICLE II

DEFINITIONS

2.1 Regional Water Board. "Regional Water Board" shall mean the California Regional Water Quality Control Board, Colorado River Basin Region, and includes its successor agencies, if any.

2.2 Owner or Owners. "Owner" or "Owners" means the Covenantor, its successors in interest, their successors in interest, including heirs and assigns, who at any time holds title to all or any portion of the Burdened Property.

2.3 Occupant or Occupants. "Occupant" or "Occupants" means Owners and any other person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy all or any portion of the Burdened Property.

2.4 Improvements. "Improvements" means all buildings, roads, driveways, re-gradings, and paved areas, constructed or placed upon any portion of the Burdened Property.

2.5 Burdened Property. The Burdened Property is described in Exhibit "A" as the "Set Aside Parcel," which is attached hereto and incorporated herein by this reference and is more specifically described as a Portion of Parcel 7 of Parcel Map 052-070-39 Recorded in Book 12, Page 44 of Parcel Maps, formerly known as Wright's Dry Cleaners, 1693 West Main Street, City of El Centro, County of Imperial, State of California. Notwithstanding the foregoing, if the boundary lines of the parcel that constitutes the Burdened Property are legally adjusted in the future, then following such adjustment, this Covenant shall be deemed to encumber only the parcel(s) that contain all or any portion of the Burdened Property.

ARTICLE III

GENERAL PROVISIONS

3.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and all of the Restrictions set forth in Article IV below: (a) are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the Burdened Property of hazardous materials and/or waste; (b) shall run with the land pursuant to Civil Code section 1471; (c) shall pass with each and every portion of the Burdened Property; (d) shall apply to, inure to the benefit of, and bind the respective successors in interest thereof for the benefit of the Regional Water Board; (e) are enforceable by the Regional Water Board and the Owner; and (f) are imposed upon the entire Burdened Property unless expressly stated as applicable only to a specific portion thereof.

3.2 Concurrence of Owners/Occupants Presumed. All purchasers, lessees, and possessors of all or any portion of the Burdened Property shall become Owners or Occupants, as defined herein, and shall be deemed, pursuant to Civil Code section 1471(b), by their purchase, lease, or possession of the Burdened Property to be bound by the Restrictions, and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such heirs, successors, and assignees, that the Restrictions established herein must be adhered to for the benefit of the Regional Water Board and all Owners and Occupants, and that the interest of all Owners and Occupants of the Burdened Property shall be subject to the Restrictions.

3.3 Written Notice of the Presence of Hazardous Materials and/or Waste. Prior to the sale, lease

or sublease of the Burdened Property, or any portion thereof, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee notice that hazardous materials and/or wastes are located on or beneath the Burdened Property. Giving a copy of this Covenant to such buyer, lessee, or sublessee shall satisfy the notice requirements of this section 3.3.

3.4 Incorporation into Deeds and Leases. The Restrictions set forth herein shall be incorporated by reference in and attached to each and all deeds and leases of any portion of the Burdened Property that are entered into, on, or after the date this Covenant is recorded in the Official Records of Imperial County, California. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant has been attached to or incorporated into any given deed or lease.

ARTICLE IV

DEVELOPMENT, USE, AND CONVEYANCE OF THE BURDENED PROPERTY; ACCESS RIGHT OF REGIONAL WATER BOARD

4.1 Restrictions on Development and Use. Covenantor promises to restrict the development and use of the Burdened Property as follows:

a. Development of the Burdened Property shall be restricted to asphalt-paved parking and drive areas.

b. No Owner or Occupant of the Burdened Property or any portion thereof shall conduct or permit any excavation work on the Burdened Property, unless expressly permitted in writing by the Regional Water Board. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by the Owner or Occupant, or its respective agent, in accordance with all applicable provisions of local, state and federal law.

c. No Owner or Occupant of the Burdened Property or any portion thereof shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to domestic, potable, or industrial uses, unless expressly permitted in writing by the Regional Water Board.

d. The Owner shall notify the Regional Water Board of: (1) any breach of the asphalt paving that could result in human exposure to soil underlying the asphalt paving; and (2) the type and date of repair of any such breach. Notification to the Regional Water Board shall be made by certified mail, return receipt requested, within ten (10) working days of both the discovery of the breach and the completion of repairs.

e. No Owner or Occupant of the Burdened Property shall act in any manner that would aggravate or contribute to the existing environmental conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped or paved areas.

4.2 Conveyance of the Burdened Property. If the Owner sells, ground leases, or otherwise conveys the Burdened Property, or any portion thereof, the Owner shall provide notice to the Regional Water Board not later than thirty (30) days after the closing date or date of ground lease of the completion of the transaction. Such notice shall contain a description of the property to be ground leased or conveyed, the name or names of the ground lessee(s) or buyer(s), and, if known to the Owner, the general purpose for which the Burdened Property to be ground leased or conveyed will be used. Notice is required hereunder for purposes of maintaining a current record of Owners and ground leases of the Burdened Property and to enable the Regional Water Board to ensure that the requirements of this Covenant are being met.

Within thirty (30) days after the Owner enters into any space lease of a portion of the Burdened Property, the Owner shall supply notice to the Regional Water Board of the completion of such lease transaction containing a description of the premises leased, the name of the tenant, and, if known to the Owner, the general purpose for which such premises will be used.

The Regional Water Board shall not have authority, by reason of this Covenant, to approve, disapprove, or otherwise affect the proposed conveyance, except as otherwise provided by law, administrative order, or a specific provision of this Covenant.

4.3 Regional Water Board Access Right. The Owner agrees that the Regional Water Board, and/or any persons acting pursuant to Regional Water Board orders, pursuant to the authority provided in Division 7 of the Water Code, shall have the reasonable right of entry and access on and across any drive aisles, parking areas, and landscaped areas within the Burdened Property for inspection, surveillance, monitoring, and other activities consistent with the purposes of this Covenant, as deemed necessary by the Regional Water Board to protect public health or safety, or the environment.

ARTICLE V

ENFORCEMENT

5.1 Enforcement. Failure of the Covenantor, Owner, or Occupant to materially comply with any of the Restrictions specifically applicable to it within sixty (60) days after its receipt of written notice from the Regional Water Board, which describes an alleged violation of the Restrictions, shall be grounds for the Regional Water Board to require that the Covenantor, Owner, or Occupant modify or remove any Improvements constructed or placed upon any portion of the Burdened Property in violation of the Restrictions. Any material violation of this Covenant, which is not cured within sixty (60) days after the Covenantor's, Owner's, or Occupant's receipt of written notice from the Regional Water Board, which describes the alleged violation of this Covenant, shall be grounds for the Regional Water Board to file administrative and/or civil or criminal actions, as provided by law.

5.2 No waiver, abridgement, or limitation of Regional Water Board's authorities. Nothing in this

Covenant shall be construed as any waiver, abridgement, or other form of limitation on the Regional Water Board's authorities under Division 7 (commencing with section 13000) of the Water Code or other applicable laws.

ARTICLE VI

VARIANCE, TERMINATION, AND TERM

6.1 Variance. Covenantor, or any other aggrieved person, may apply to the Regional Water Board for a written variance from the provisions of this Covenant as they apply to all or any portion of the Burdened Property.

6.2 Termination. Covenantor, or any other aggrieved person, may apply to the Regional Water Board for a termination of the Restrictions or other terms of this Covenant as they apply to all or any portion of the Burdened Property.

6.3 Term. Unless this Covenant is terminated in accordance with section 6.2 above, by law, or by the Regional Water Board in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII

MISCELLANEOUS

7.1 No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property, or any portion thereof, to the general public or anyone else for any purpose whatsoever.

7.2 Regional Water Board References. All references to the Regional Water Board include successor agencies/Regional Water Boards or other successor entity.

7.3 Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Imperial within ten (10) days of the Covenantor's receipt of a fully executed original of the Covenant. This Covenant shall be executed and recorded by the Covenantor in the County of Imperial within ten (10) days of the date of written request by the Regional Water Board to execute and record this Covenant.

7.4 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant (collective, "Notice"), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or official of a government agency being served; or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested. Notices shall be addressed as follows:

If to "Covenantor":

CT-El Centro, LLC
20151 S.W. Birch, Suite 200
Newport Beach, California 92660

If to "Regional Water Board":

Regional Water Quality Control Board
Colorado River Basin Region
Attention: Executive Officer
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

It shall be the responsibility of the person giving notice to verify that the address specified above for the Regional Water Board or successor agency is current. From and after the date on which any party acquires record fee title to the Burdened Property, then all notices and demands which are required or permitted to be given to the Covenantor and/or the Owner under this Covenant shall be addressed to such Owner at the address for the mailing of property tax statements for the Burdened Property, as shown in the records of the Imperial County Assessor's Office, or to such other place as such Owner may from time to time designate by written notice to the Regional Water Board in accordance with this section.

7.5 Partial Invalidity. If any portion of the Restrictions or other terms set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.6 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for convenience of the reader and have no legal effect with respect to the interpretation of the terms and conditions of the Covenant.

7.7 Statutory References. All statutory references to Code sections include successor statutory provisions.

7.8 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the Covenantor duly executes this Covenant as follows:

Covenantor:

CT-El Centro, L.L.C., a California
limited liability company

By: CT California Fund III, LLC, a
California limited liability company,
its Managing Member

By: 

Name: Russell Campbell

Title: Managing Member

Date: 10/30, 2008

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of ORANGE

On OCT. 30, 2008 before me, DEBRA BAKER
Date Here Insert Name and Title of the Officer

personally appeared ROBERT M. CAMPBELL
Name(s) of Signer(s)

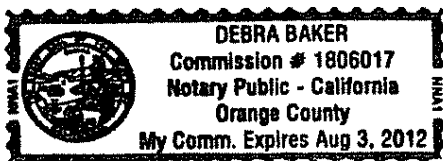
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Debra Baker
Signature of Notary Public

Place Notary Seal Above



OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

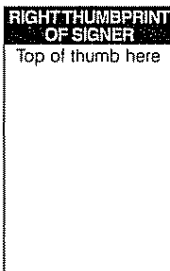
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____



Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

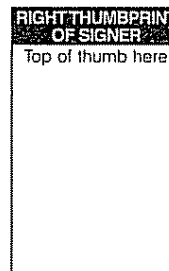


EXHIBIT A

**LEGAL DESCRIPTION
SET ASIDE PARCEL**

A PORTION OF PARCEL 7 OF PARCEL MAP 052-070-39 RECORDED IN BOOK 12, PAGE 44, OF PARCEL MAPS, A DIVISION OF THAT PORTION OF TRACT 268, TOWNSHIP 16 SOUTH, RANGES 13 AND 14 EAST, S.B.M., IN THE CITY OF EL CENTRO, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF,

COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL 7,
THENCE SOUTH 19°00'04" EAST A DISTANCE OF 263.88' TO THE NORTHWEST
CORNER OF SAID SET ASIDE PARCEL, SAID POINT ALSO BEING THE **TRUE
POINT OF BEGINNING**,

THENCE NORTH 88°21'56" EAST A DISTANCE OF 150.50' TO A POINT;

THENCE SOUTH 02°04'31" EAST A DISTANCE OF 140.00' ALONG A LINE
PARALLEL TO AND 9.50 FEET WESTERLY TO PARCEL 12, TO A POINT;

THENCE SOUTH 88°21'56" WEST A DISTANCE OF 150.50' TO A POINT;

THENCE NORTH 02°04'31" WEST A DISTANCE OF 140.00' TO **THE TRUE
POINT OF BEGINNING**.

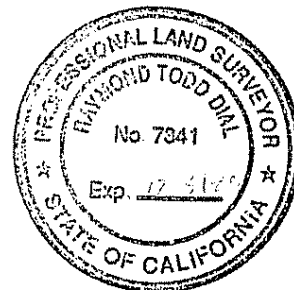
SAID AREA CONTAINING 0.48 ACRES.



RAYMOND TODD DIAL PLS 7341
(HALE ENGINEERING)

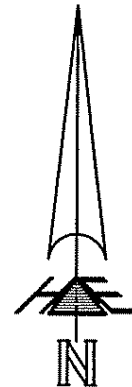


DATE



MAIN STREET

WATERMAN AVENUE



S19°00'04"E 263.88'

T.P.B.

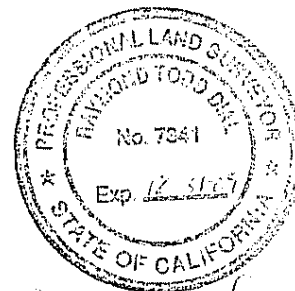
N88°21'56"E 150.50'

N02°04'31"W 140.00'

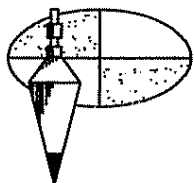
SET ASIDE PARCEL
±0.48 ACS.

S88°21'56"W 150.50'

S02°04'31"E 140.00'



1/14/08



HALE ENGINEERING & SURVEYING

dba **TESCO**

242 N. 8th Street
El Centro, CA 92243
Tel: (760) 352-2716 Fax: (760) 352-2917

SET ASIDE PARCEL
EXHIBIT

CLIENT: C.T. REALTY

C.F. NO. 05S80 EXH

SHEET 1 OF 1

DWN BY: E.B.

DATE: 03-20-08

CHK'D:

REFER:

JOB NO: 05S80